

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

United States of America,	)	
	)	
Plaintiff,	)	Case No.: 4:10-cr-00070
	)	
vs.	)	
	)	
Dustin Morsette, a/k/a Dusty James Morsette,	)	
	)	
Defendant.	)	

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**MOTION IN LIMINE RE: DEFENDANT'S LETTER TO JUDGE**

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Dustin Morsette (“Morsette”) by and through his attorney, files this *Motion in Limine re: Defendant's Letter to Judge* requesting that this Court preclude evidence of Morsette's letter to Judge Hovland from September 2010 under Fed. R. Evid. 403 and the self-incrimination clause of the Fifth Amendment.

Under Rule 403, Fed. R. Evid., “[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”

Morsette's letter to Judge Hovland has some probative value, but the general tone and comments within the letter could result in unfair prejudice, confusion of the issues, and misleading the jury, and could “induc[e] [a] decision on a purely emotional basis.” Fed. R. Evid. 403 advisory committee's note. Furthermore, upon information and belief, the letter was written and submitted

to the Court and all parties without prior review from Morsette's counsel. The danger this letter poses substantially outweighs any probative value the letter may have.

Additionally, the Fifth Amendment of the United States Constitution states prohibits a criminal defendant from being “compelled . . . to be a witness against himself.” U.S. CONST. amend. V. Morsette has not yet determined if he will be testifying at trial. If Morsette's letter is presented to the jury, then Morsette would have no choice but to testify in order to explain the letter. His compelled testimony would result in a direct violation of his fundamental right to be free from self-incrimination.

### **CONCLUSION**

For the foregoing reasons, Defendant respectfully requests that this Court GRANT this Motion to exclude from evidence Defendant's letter to Judge Hovland from September 2010.

Dated this 23<sup>rd</sup> day of March, 2012.

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By: /s/ Paul H. Myerchin  
Paul H. Myerchin (#05412)

**CERTIFICATE OF SERVICE**

I hereby certify that on March 23, 2012, the **MOTION IN LIMINE RE: DEFENDANT'S LETTER TO JUDGE** was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

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/s/ Paul H. Myerchin  
Paul H. Myerchin (ND ID #05412)